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COMMITTEE ON THE RIGHTS OF THE CHILD

Eighteenth session

SUMMARY RECORD OF THE 465th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 May 1998, at 10 a.m.

Chairperson: Mrs. KARP

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Japan (continued) (CRC/C/41/Add.1; CRC/C/Q/JAP.1; CRC/C/A/JAP/1; written replies from the Government of Japan to the questions posed in the List of issues) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Japan resumed their places at the Committee table.

2. The CHAIRPERSON invited the Committee members to pose their questions concerning civil rights and freedoms [paras. 20-25 of the List of issues (CRC/C/Q/JAP.1)].

3. Mrs. SARDENBERG, underlining the need to put an end to discrimination between boys and girls, which was reflected in terms of the legal age of marriage and the types of training pursued, asked whether the authorities planned to revise school textbooks in order to remove all references to stereotypes relating the roles of men and women. She drew the delegation's attention to the inadequate involvement by children, particularly in schools, which ran counter to the view of the child as the subject of rights. As to the related problem of corporal punishment, she asked whether the State party planned to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4. Mrs. PALME said she was concerned about the fate of children of foreign mothers who had not been recognized by their Japanese fathers before their birth and consequently ran the risk of becoming stateless, and asked whether nationality legislation really took into account the higher interest of the child. She also sought clarification on the right of children to form associations and to engage in political activities within and outside schools, as well as the restrictions imposed on the exercise of that right.

5. Mr. KOLOSOV expressed concern at violations of the right of children to privacy. He understood that letters received by children could be opened by their teachers. In addition, it seemed that boys were not separated from girls during medical examinations, although all of them were obliged to undress completely. He also wished to know whether studies had been carried out on the possible link between the strict rules of obedience and violence among children.

6. Mr. FULCI, referring to the issue of freedom of religion, mentioned the case of a pupil who had reportedly been expelled from school for refusing to participate in kendo exercises, and the case of another child who was said to have been marked absent from a class taught on a Sunday whereas he was attending mass. Did Japanese legislation allow children, at their own or their parents' request, not to follow religious instruction or to attend religious ceremonies in educational institutions? Did it specifically recognize the child's right to freedom of thought, conscience and religion?

7. Mr. RABAH asked whether the Government planned to take steps to increase participation by children and take their views into account.

8. Mrs. OUEDRAOGO requested clarification on the cases of stateless children mentioned in paragraph 75 of the report (CRC/C/41/Add.1), as well as the provisions of the Nationality Law, which seemed to her to be at variance with article 7, paragraph 2 of the Convention. On the subject of the right of children to know their parents, she asked whether legal provisions existed guaranteeing a mother the opportunity to make public the identity of her child's father in cases of denied or repudiated paternity. Would it not be possible to find a term other than illegitimate child, so as to avoid marginalizing the children in question? What steps had been taken by the State party to guarantee the right of children born to parents in irregular circumstances to a declaration of birth? Did regulations relating to loss of nationality guarantee the right of a child to preserve his or her identity, including his or her nationality, and were they in conformity with article 8 of the Convention? Were the provisions of article 13 of the Convention respected? Citing the guidelines which the Government had issued to educational institutions (CRC/C/41/Add.1, para. 84), she said that freedom of expression in such institutions should be enhanced.

9. The CHAIRPERSON asked whether steps had been taken to involve children in the search for solutions to the problems of corporal punishment and violence among children. Regarding the right to privacy and to information, she asked whether it was true that children were not allowed access to the information gathered by the schools and forwarded to the authorities. She also sought clarification on the censorship imposed on school textbooks.

10. Mr. YOSHIDA (Japan) said that the Ministry of Education instructed teachers not to exercise any discrimination between boys and girls, and that the Ministry was determined to put an end to corporal punishment, which was illegal. The Ministry discouraged children from participating in political activities in educational institutions and outside because of their lack of maturity. It also encouraged educational institutions and boards of education not to intervene in children's private lives.

11. As to the problem of bullying, he did not think there was a link between such violence and the rules of obedience applied in educational institutions. Children should of course be involved in solving the problem, but that was not an easy task, as children often feared that they would be victims of brutality if they expressed their opinions openly. School textbooks could not be said to be subjected to censorship, and the Supreme Court had endorsed that view; the authorities saw to it that textbook content corresponded to the knowledge that the children ought to acquire. Kendo formed part of obligatory physical exercise, but if a child did not wish to participate for religious reasons, the Ministry of Education considered that he or she should be able to engage in other forms of physical exercise. Lastly, concerning the medical examinations which girls and boys had to participate in together, account was taken of the age of the children, who did not necessarily have to undress completely. Where appropriate, children could be examined in private rooms.

12. Mr. HAYASHI (Japan) said that the legal age of marriage was 16 for girls. Recognition of paternity could be requested by any child or by persons close to him or her. Japanese nationality was granted on birth when the father or mother had Japanese nationality. However, if a child was born out of wedlock to a Japanese father, the father had to recognize the child before

he or she was born if the child was to be granted Japanese nationality. Otherwise, the child would have the mother's nationality. Any child who had not acquired Japanese nationality at birth could subsequently apply for it and could easily be naturalized. If a child was born in Japan to unknown parents or foreign parents, he or she had an automatic right to Japanese nationality, which could not be withdrawn against the child's will.

13. Mr. GOTO (Japan) said that the guidance centres and other institutions dealt with rehabilitation of victims of ill-treatment. They offered the services of specialists such as psychologists, psychiatrists, physicians, etc. Concerning protection of the privacy of children placed in institutions, junior high school pupils had individual rooms.

14. Mr. KATSUURA (Japan), acknowledging that bullying among children at school was a serious problem in Japan, said that a variety of steps had been taken to raise awareness among pupils of respect for the rights of others, to enhance the ability of teachers to react to such phenomena and to develop systems of consultation between families, schools and local communities. Psychologists, psychiatrists and police officers provided assistance to children who had fallen victim to acts of violence, and to the families concerned.

15. Mr. HAYASHI (Japan) said that under Japanese family registration legislation, all newborn children had to be declared. Similarly, anyone finding an abandoned infant, or any police officer informed of the discovery of an abandoned infant, had to report the matter to the mayor of the town or village in which the infant had been found.

16. Mr. KAITANI (Japan) said that torture and inhuman treatment were banned under the Japanese Constitution and that all Japanese laws referring to torture were consistent with the provisions of the Convention. The Japanese Government was also currently examining the possibility of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

17. Mr. RABAH inquired as to the risk that a child might become stateless if his or her parents lost their Japanese nationality.

18. Mrs. PALME asked whether Japan planned to ratify the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons.

19. The CHAIRPERSON sought further details on the causes of violence among pupils.

20. Mr. YOSHIDA (Japan) said that violence among pupils had many causes and that the Ministry of Education was currently engaged in studies on the matter. Stress, competition among children and corporal punishment were notable among the factors contributing to such acts of violence.

21. Mr. HAYASHI (Japan) said that, under the law, a child whose parents lost Japanese nationality did not automatically become stateless.

22. Mr. KAITANI (Japan) said that the conventions on statelessness were based on the principle of jus soli, while the Japanese Nationality Law was based on the principle of jus sanguinis - hence Japan's difficulty in ratifying the conventions.

23. The CHAIRPERSON invited the members of the Committee to pose questions on the section entitled "Family environment and alternative care" (paras. 26-29 of the List of issues (CRC/C/Q/JAP.1)).

24. Mrs. OUEDRAOGO asked how respect for children's opinions and their participation were ensured within families, particularly traditional ones. She also sought more detail on the assistance programme for fathers' participation in home education (report, para. 117), the general programmes of home assistance and the dissolution of adoptive relations (report, para. 145). Were the provisions of the Convention familiar to the heads of Family and Child Guidance Centres and child commissioners? Was there coordination between the home education services and the child welfare services, and what legal provisions guaranteed that the higher interest of the child was taken into account in cases of adoption by a close relative or a family member, or cases of international adoption?

25. Mr. FULCI, noting that the Japanese Civil Code set out the rights of parents over the child (the right to impose discipline, the right to authorize the child to choose a career, etc.), wished to know whether the Government was taking steps to give children too an opportunity to express their views in that regard. He regretted the fact that, even though Japanese legislation banned adoption for commercial purposes through intermediaries, the practice was apparently fairly common. He had also heard of cases where the intermediaries offered a child for adoption even before it was born; he wondered what steps had been taken to correct such abuses.

26. Mrs. PALME asked whether Japan intended to ratify the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption. She also wished to know whether the Government of Japan was taking steps to strengthen home education and whether there was a system of periodic reviews of the placement of children in homes.

27. Mr. RABAH asked how the higher interest of the child was taken into account in cases of separation of the parents, especially when one of them wished to take the child abroad.

28. The CHAIRPERSON asked why the law amending the Child Welfare Law did not explicitly ban corporal punishment and whether it was true that a refusal to go to school constituted sufficient grounds for placing a child in a protective institution.

29. Mr. HAYASHI (Japan) said that special adoptions took place when the natural parents experienced extreme difficulty in ensuring the protection and care of a child or were declared incapable, and when the child's interest absolutely required such action. Dissolution of the adoptive relation was not normally authorized, but the family court could have the link dissolved at the request of an adopted child if he or she was a victim of ill-treatment on the part of his or her adoptive parents, or for other reasons involving a serious

danger to the child. In normal circumstances, the Civil Code placed on the parents an obligation to take care of their children and provide them with a good upbringing, and parental authority was exercised in the interests of the child's welfare.

30. Mr. KAITANI (Japan) said that the Government of Japan did not yet plan to ratify the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption because it had encountered difficulties related to special adoptions. Nevertheless, the legislation contained provision for measures to protect children in the event of the separation of their parents and when one of them wished to take the child abroad. The family court could hear such cases, and would take into account the higher interest of the child. It had to be acknowledged that the assistance programme for fathers' participation in home education was encountering obstacles arising principally from the traditional concept of the family which still prevailed in Japan.

31. Mr. YOSHIDA (Japan) said that children deprived of a family environment could be placed either in protective institutions or in foster families. These families, composed of volunteers, were unfortunately few in number, and public opinion generally displayed little interest in that type of placement. Efforts were being made to improve the situation of children placed in protective institutions and to give them a chance to make their views known. The staff of the Child Guidance Centres, for example, made periodic visits to such institutions, of which there were 500 throughout the country.

32. The new law amending the Child Welfare Law did not explicitly ban corporal punishment. However, the enabling legislation laid down minimum rules for the sound running of child welfare institutions and mentioned corporal punishment. The Act also contained a special provision on freedom of expression for children.

33. Mr. GOTO (Japan) said that children experiencing difficulties in following their lessons were not automatically placed in special institutions. Such steps were taken only if the child's parents did not take proper care of the child.

34. The CHAIRPERSON invited the members of the Committee to pose questions on the sections entitled "Basic health and welfare" and "Education, leisure and cultural activities" in the List of issues (CRC/C/Q/JAP.1).

35. Mr. FULCI noted with satisfaction that the infant mortality rate and the prevalence of infectious diseases among children had dropped substantially in Japan. However, studies showed that in Japan children often suffered from disorders in the development of the nervous system, and he wished to know the causes of such disorders and the steps taken by the Government to combat the phenomenon.

36. Mrs. PALME noted that, according to statistics provided by the Japanese Ministry of Health and Welfare, there were very few disabled children in Japan. She knew that Japan had an excellent system of preventive care, but wondered if that was the sole explanation for the data. She also asked how

decisions concerning disabled children were taken. Lastly, she pointed out that the application of corporal punishment to disabled children was wholly contrary to the Convention.

37. Mrs. OUEDRAOGO noted with concern that many disabled children did not receive a proper education because of the inadequate number of institutions and the lack of staff. What steps had been taken to meet the needs of disabled children in that area and facilitate their integration in society?

38. Regarding sex education, she asked how the syllabuses which were to be taught in schools were drawn up, what was the extent of participation by pupils and what was the reaction of parents. Noting the rise in the number of abortions among young adolescent girls, she asked what preventive measures had been adopted in that regard, particularly in the field of education. Did pregnant adolescents have the right to continue their schooling, and what steps had been taken to address the problem of integration which arose in such cases? What were the Japanese authorities doing to protect children who were rejected by their families, either because they refused to follow their parents' religion, or because their social behaviour was not considered acceptable?

39. Tuition fees were steadily rising, to the point where they were beyond the means of over half of parents. How did Japan plan to reduce that financial burden? Could a child from a modest family seriously contemplate secondary and university studies in view of the high costs of education? Were scholarships adequate? The report stated (para. 261) that non-Japanese children were not required to pursue compulsory schooling. That could be viewed as contrary to the Convention, which laid down that primary education must be compulsory for all children without distinction. She noted that the Japanese authorities had taken steps to reduce the drop-out rate at both primary and secondary levels. However, some 100,000 cases were recorded at the post-secondary level each year. What additional steps would the Japanese authorities take to remedy that situation? Did the goals mentioned in paragraph 230 of the report take account of the fact that the upbringing of children should aim to inculcate respect for human rights and fundamental freedoms and the principles enshrined in the Charter of the United Nations, in accordance with article 29 (b) of the Convention? The Japanese educational system placed heavy burdens both on the teaching staff and on the pupils. How were standards set? Teachers, pupils and parents should be involved in that process. The delegation had said that the Government had no control over the content of the teaching provided in private schools. She considered that standards should be set relating to the number of hours of classes per week and also, to a degree, the content of school curricula, and efforts should be made to ensure that those standards were observed by private schools.

40. Mrs. SARDENBERG said she thought that Japanese policies relating to disabled children would tend to lead to exclusion rather than integration. What was the delegation's view on the subject? Turning to Mr. Fulci's concern about television programmes for children, she asked whether guidelines addressed to those who produced cartoons existed in Japan. The report mentioned (para. 243) that in 1994 a new urban development programme had been introduced for the benefit of children. Had the programme undergone an evaluation, and had it been updated? A large number of children were victims

of traffic accidents (1,943 children in 1995). Could the delegation indicate the causes of that situation and the steps that had been taken to address them?

41. Mr. RABAH, noting that in Japan 60 per cent of those affected by the AIDS virus were aged under 17 at the time they were infected, asked whether preventive measures had been adopted to combat the problem and whether the sex education provided to minors was really effective.

42. The CHAIRPERSON asked whether the Japanese Ministry of Education took steps to protect children against corporal punishment and the acts of violence they might suffer at school. What was the reason why children were not more involved in drawing up preventive measures against acts of violence committed at school and in the drafting of school rules and disciplinary measures? Had the Japanese authorities considered the possibility of pupil representation on boards of education? Had the five-day week had the effect of reducing the stress that had been observed among children? She noted that a number of bodies had pooled their efforts to combat the use of narcotics among young people, but in no cases did their membership include minors who had had drug addiction problems and wished to share their experience. Had the Japanese authorities considered the possibility of such participation?

43. Mr. GOTO (Japan) said that the Japanese authorities did not have any precise data on disorders in the development of the nervous system among Japanese children, a gap that they would endeavour to fill. He acknowledged that education-related costs were very high, but pointed out that the State endeavoured to provide financial support to families when it was established that they did not have sufficient means to send their children to school. In higher education, scholarships were offered to deserving students who were in financial difficulties, and both public and private universities reduced or waived tuition fees if the financial situation of students required it.

44. In Japan, schooling was compulsory only for Japanese children in elementary schools and lower secondary schools. Nevertheless, non-Japanese children could, if they wished, enjoy the same access to education. Non-Japanese schools, whether international, American, Korean or others, did not fall under the "normal" school system and children who attended them could not subsequently enter the Japanese school system directly. That restriction applied to all foreigners and not only to Koreans. Nevertheless, the Japanese school system had produced a literacy rate of 99.9 per cent among the population as a whole.

45. It was true that the number of disabled children in Japan seemed low. Perhaps the explanation lay in the definition of disability used in Japan. He would look into the definitions of disabled children used abroad. Nevertheless, the Japanese people had recently learned that disabled children had been subjected to corporal punishment in specialist institutions, and the Government had taken very firm steps to prevent such cases from recurring, not excluding closure of institutions in which such acts had been committed. Since 1996, the authorities were applying awareness creation measures designed to awaken the social conscience of Japanese people where disabled children were concerned. In addition, in cases where it was proposed to place a disabled child in a specialist institution, the views of the child concerned

were taken fully into account. However, placing a child in such an institution was in no way intended to cut him or her off from society. The child could be integrated in other institutional contexts or could follow classes in an ordinary school.

46. He added that sex education should be tailored to the child's level of development. It should inculcate respect for others and for life. Accordingly, classes were organized to ensure that children received all the information they required. However, there was a need to take care not to give too much information to children who were too young to assimilate it properly. In that context, in relation to the growing number of abortions among adolescents, he said that there were health centres which gave young girls advice and took the steps required to prevent such situations. Lastly, since April 1998, seropositive persons were regarded as being disabled and hence could receive an allowance for medical care.

47. Mr. YOSHIDA (Japan) said that the authorities endeavoured to involve children in efforts to combat violence committed at school because such acts were often concealed and could only be identified by the children. However, children were not involved in the programmes on drug use.

48. The CHAIRPERSON said that because of the shortage of time, the delegation of Japan would be requested to reply in writing to the outstanding questions concerning the sections on "Basic health and welfare" and "Education, leisure and cultural activities" (List of issues, paras. 30-38). She invited the members of the Committee to pose questions on the last section of the List of issues, entitled "Special protection measures" (CRC/C/Q/JAP.1, paras. 39-42).

49. Mrs. PALME wished to know whether, further to the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in August 1996, Japan had adopted a national plan of action to combat sexual exploitation of which children might be victims in Japan.

50. Mr. FULCI said he understood from information provided by non-governmental organizations in Japan that the distribution of pornographic material featuring children was not regarded as an offence if the minor concerned had consented to the dissemination of his or her image. Considering that Japan was one of the principal exporters of such material, especially on the Internet, he wondered whether the Government of Japan intended to regulate that type of commercial activity. The media also frequently reported cases of sexual exploitation of foreign children, particularly in the Philippines and in Thailand, by Japanese businessmen. Such acts were offences under the Japanese Penal Code, just as if they had been committed in Japan, but to date the Japanese police had carried out no investigations of offences committed in that way: the law existed, but was not applied. He therefore wished to know whether the Government of Japan intended to apply in practice measures designed to protect children abroad too against sexual abuse committed by Japanese nationals.

51. The CHAIRPERSON raised the question of the apparently frequent recourse to preventive detention of minors during investigations, and wondered whether

excessive punitive measures were not involved. When children wished to lodge a complaint, did they benefit from assistance from personnel who were independent of the law enforcement services?

52. Mr. KAITANI (Japan) said that Japan had indeed participated in the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, and in 1997 a follow-up conference had been organized in Tokyo in cooperation with UNICEF. However, the Japanese Government had not yet drawn up a national plan of action in that field.

53. Turning to pornography involving children, he pointed out that when a minor gave his or her consent to the use of his or her image in a publication and when those responsible for the publication were prosecuted for pornography, the minor in question was automatically kept apart from any criminal prosecution which might be initiated. In addition, once a bill concerning child prostitution and child pornography which was due for consideration shortly in the Parliament had been enacted, it would be possible to take legal measures against those responsible for such offences, and to institute official cooperation with the local authorities concerned in order to punish actions involving the sexual exploitation of children committed by Japanese citizens abroad.

54. Mr. INADA (Japan) added that the Japanese police had been consulted with a view to amending the current legislation, and that a task force had been entrusted with examining, inter alia, all issues related to the dissemination of pornographic material on the Internet and preventive methods which could be envisaged to ensure effective controls in that area.

55. Mr. KATSUURA (Japan) said that all the details of the Japanese system of justice for minors were set out in Japan's initial report (CRC/C/41/Add.1, paras. 256-260). He emphasized that the juvenile courts did not content themselves with investigating offences committed by young people, but also endeavoured to help young offenders to resume their places in an environment conducive to their development; for that reason the placement of young offenders in homes was not contrary to the provisions of the Convention. In any event, the courts decided to detain minors only when it was absolutely necessary to do so, and in most cases minors under investigation remained at liberty.

56. The CHAIRPERSON invited the members of the Committee to make their preliminary observations on the review of Japan's initial report. She pointed out to the Japanese delegation that the final version of the comments would be communicated to the Government of Japan in writing.

57. Mr. KOLOSOV drew the Japanese delegation's attention to the useful information presented by non-governmental organizations concerning the issues facing Japan in the field of children's rights. He invited the members of the delegation and the Government of Japan to consult the summary records of the Committee's meetings during which Japan's initial report had been considered, so that they could familiarize themselves thoroughly with the observations made by the members of the Committee, which might prove useful in the future in the application of the Convention.

58. Mrs. SARDENBERG said she too considered that cooperation with non-governmental organizations was indispensable, and that coordination machinery should be set up to strengthen, inter alia, the system for the gathering of data on all aspects of the rights set forth in the Convention. She added that the tenth anniversary of the adoption of the Convention on the Rights of the Child would fall in 1999; on that occasion the State party might perhaps make a greater effort in the field of human rights education in general and children's rights in particular.

59. Mrs. PALME said that it was particularly important to consider setting up in Japan the office of an ombudsman responsible for upholding the rights of children, particularly in order to prompt a change of attitude in traditional Japanese society.

60. Mr. FULCI expressed the hope that Japan would continue the efforts already begun to ensure the full application of all the provisions of the Convention and strengthen the legislation relating to children's rights. In that context he too emphasized the need for full cooperation with non-governmental organizations, which could supply very useful information on the situation on the ground.

61. Mrs. OUEDRAOGO also emphasized that cooperation with non-governmental organizations was essential in the application of the Convention. In addition, she hoped that more protective measures would be adopted to benefit vulnerable groups in the population, notably the ethnic groups in the country, and that awareness creation campaigns would be carried out to prompt a change of attitude in society as a whole. Lastly, she would welcome measures to eliminate violence against children and ensure greater participation by children in the taking of decisions relating to them in the field of education.

62. The CHAIRPERSON invited the delegation of Japan to set out its closing comments.

63. Mr. AKAO (Japan) expressed satisfaction at the constructive and fruitful dialogue with the members of the Committee. He too recognized that cooperation with non-governmental organizations was essential and should be continued, but emphasized that such organizations were extremely numerous and that the Government was not always in a position to take account of all their views.

64. The Japanese delegation would not fail to report to the Government of Japan the many observations which had been made by the members of the Committee, and which might be discussed in greater depth in national forums, especially those entrusted with applying the Convention. He was sure that as the years passed, any divergences of view which might have emerged as a result of the specific features of Japanese culture would diminish, and that even the minor questions which had been raised would be resolved.

65. The CHAIRPERSON thanked the Japanese delegation for its cooperation and announced that the Committee had completed its consideration of Japan's initial report.

The meeting rose at 1.15 p.m.